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V6

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/724,752 10/02/96 KUCHERLAPATI

R 8972-027-999

HM12/1223

EXAMINER

JAMESE F. HALEY, JR., ESQ.

HAUDA, K

FISH & NEAVE

ART UNIT

PAPER NUMBER

1251 AVENUE OF THE AMERICAS - 50TH FLOOR
NEW YORK NY 10020

16

DATE MAILED:

12/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

File

16

Office Action Summary	Application No. 08/724,752	Applicant(s) Kucherlapati
	Examiner Karen M. Hauda	Group Art Unit 1632



Responsive to communication(s) filed on Feb 22, 1999.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 2 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 46-52, 56-58, 61, and 62 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) 46-52, 56-58, 61, and 62 is/are allowed.

Claim(s) _____ is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 14

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Application/Control Number: 08/724,752

Page 2

Art Unit: 1632

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jane Gunnison on December 13 & 14, 1999.

The application has been amended as follows:

In claims 46-52, line 1, the phrase "and progeny" has been deleted.

In claim 46, line 2, the term "DNA" has been inserted after the term "comprise".

In claim 46, line 8, the term "operatively" has been replaced with the term "operably".

In claim 52, step b, lines 3-4, the phrase "rearrangement and to prevent formation of a transcript of a rearranged locus and the" has been deleted.

Claims 53-55 and 59-60 have been deleted.

In claim 56, step a, line 2, the term "54" has been replaced with the term "52".

DEPOSIT REQUIREMENT

Applicant's referral to the deposit of Yh1C Yac having ATCC deposit number 74367 on page 43 of the specification is insufficient assurance that all of the conditions of 37 C.F.R. §§ 1.801-1.809 have been met.

If the deposit was made under the provisions of the Budapest Treaty, filing of an affidavit or declaration by applicants, assignees or a statement by an attorney of record over his or her

Art Unit: 1632

signature and registration number stating that the deposit has been accepted by an International Depository Authority under the provisions of the Budapest Treaty, that all restrictions upon public access to the deposit will be irrevocably removed upon the grant of a patent on this application and that the deposit will be replaced if viable samples cannot be dispensed by the depository is required. This requirement is necessary when a deposit is made under the provisions of the Budapest Treaty as the Treaty leaves this specific matter to the discretion of each State. Amendment of the specification to recite the date of the deposit and the complete name and address of the depository is required.

Furthermore, unless deposit was made at or before the time of filing, a declaration filed under 37 C.F.R. 1.132 is necessary to construct a chain of custody. The declaration, executed by a person in a position to know, should identify the deposited material by its depository accession number, establish that the deposited material is the same as that described in the specification, and establish that the deposited material was in applicant's possession at the time of filing. In re Lundak, 27 USPQ 90.

If the deposit has not been made under the Budapest Treaty, then in order to certify that the deposit meets the criteria set forth in 37 CFR 1.801-1.809, applicants may provide assurance of compliance by an affidavit or declaration, or by a statement by an attorney of record over his or her signature and registration number, showing that,

- (a) during the pendency of this application, access to the invention will be afforded to the Commissioner upon request;
- (b) all restrictions upon availability to the public will be irrevocably removed upon granting of the patent;
- (c) the deposit will be maintained in a public depository for a period of 30 years of 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- (d) a test of the viability of the biological material at the time of the deposit was made and that the test results indicated that said biological material was viable (see 37 CFR 1.807); and,
- (e) the deposit will be replaced if it should ever become inviable.

The following is an examiner's statement of reasons for allowance:

The claimed invention is allowable over the prior art of record, because the prior art of record does not teach specifically combining the a DNA fragment of chromosome 14 from the five most proximal V_H gene segments, continuing through the D segment genes, the J segment

Art Unit: 1632

genes and the constant region genes through the C δ region of the human immunoglobulin gene, wherein the fragment does not contain the C γ gene, but the fragment is operably linked to a human C γ 2 gene region. There is no motivation provided in the art to combine these specific regions to make a transgenic mouse which expresses a human IgG2 immunoglobulin heavy chain.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

QUAYLE

This application is in condition for allowance except for the following formal matters:

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Art Unit: 1632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen M. Hauda whose telephone number is (703) 305-6608.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jasemine Chambers, may be reached at (703) 308-2035.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2801.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1632.

Papers related to this application may be submitted to Group 160 by facsimile transmission. Papers should be faxed to Group 160 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is or (703) 305-3014 or (703) 308-4242.

Karen M. Hauda
Karen M. Hauda
Patent Examiner